

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
FRANCINE L. COSNER, M.D., : LS0905206MED
RESPONDENT :

[Division of Enforcement Case No. 08 MED 109]

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Francine L. Cosner, M.D.
1777 W. Grand Avenue
Port Washington, WI 53074

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Medical Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Medical Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Francine L. Cosner, M.D., Respondent, date of birth April 22, 1966, is licensed and currently registered by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin, pursuant to license number 48171, which was first granted May 25, 2005. Her address of record with the Medical Examining Board is 1777 W. Grand Avenue, Port Washington, WI 53074.

2. Respondent's practice specialty is obstetrics and gynecology.

3. On January 31, 2008, Patient A (DOB 4/21/31) saw Respondent for evaluation of possible post-menopausal bleeding. Because of a concern of possible endometrial cancer, the patient and Respondent agreed that further tissue evaluation was necessary.

4. On March 12, 2008, Patient A was admitted to North Shore Surgical Center in Greendale, Wisconsin, and Respondent performed a hysteroscopy with biopsy/D&C.

5. Respondent suspected that she had perforated the uterus, but she did not believe the instrumentation was outside the uterus due to the shallow depth of placement of the instruments. Respondent considered doing a laparoscopy but rejected that approach because she expected a simple uterine perforation would heal spontaneously. Therefore, Respondent concluded the laparoscopy was not justified given the risk of subjecting the patient to general anesthesia, along

with the additional risk of bowel/vascular injury.

6. Although Respondent suspected she perforated Patient A's uterus, she did not see the patient after she left the operative suite. Respondent did tell Patient A's family that she believed she had perforated the uterus and instructed them to call if the patient had problems such as pain fever or nausea. Because nursing staff did not report any decompensation, Ms. A was discharged home at 10:30 a.m., approximately two hours following the surgery.

7. At approximately 11:50 a.m., Respondent was summoned to attend another patient's delivery, which she did until approximately 1:00 p.m.

8. A short time after arriving home, the patient began experiencing acute abdominal pain and nausea, resulting in uncontrollable vomiting. At approximately 12:00 noon, the patient's daughter called the surgical center, described the patient's symptoms and requested a call back from Respondent. At 12:48 p.m., having not yet heard from Respondent, the patient's daughter again called the surgical center and requested that Respondent call immediately.

9. Respondent did not receive the family's first telephone message and received the second message via a page at approximately 1:00 p.m.. Respondent was concerned that Patient A's symptoms suggested a possible bowel perforation and advised that the patient was to be brought to the emergency room (ER) for a full evaluation.

10. Patient A was admitted to the ER at approximately 2:00 p.m. Respondent did not report to the ER, but monitored the patient's labs and x-rays remotely. Reports of lab work demonstrated a WBC of 2.5 (a left-shift), which concerned Respondent, however the abdominal x-ray showed no free air.

11. At approximately 5:00 p.m., License called the ER to check on the patient's condition. The ER attending physician reported that a recent CT scan demonstrated air and fluid in the abdomen, along with signs of bowel injury.

12. Respondent recognized the need to proceed with surgical evaluation for a bowel injury, and informed the ER physician that she was arranging surgery and would be in.

13. Respondent arrived at the hospital at approximately 5:30 p.m. Respondent and the on-call general surgeon discovered and repaired a puncture to Patient A's upper bowel and uterine wall. Patient A was expected to recover.

14. In the morning on March 13, Patient A's condition became critical: She could not maintain adequate blood pressure and a bedside echocardiogram demonstrated global cardiac dysfunction. A cardiac balloon pump was placed without effect and Patient A underwent dialysis. Respondent went to the hospital three times that morning and maintained contact with the family.

15. Patient A's condition deteriorated and she died at approximately 8:00 p.m. on March 13.

16. On March 19-21, 2009, Respondent obtained 18.25 AMA PRA Category 1 continuing education credits by completing "*An Overview of Perioperative Medicine 2009*," offered by the Mayo Clinic School of Continuing Medical Education.

17. On May 2-6, 2009, Respondent attended the 2009 American College of Obstetricians and Gynecologists (ACOG) Annual Clinical Meeting and obtained 6 hours of continuing education by completing "*Hands-on" Operative Hysteroscopy*."

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 448.02(3) and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in the conduct as set out above, has engaged in conduct which tends to constitute a danger to the health, welfare, or safety of a patient, which is unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(h) and is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Francine L. Cosner, M.D., Respondent, is hereby REPRIMANDED for the above conduct.

2. Respondent having completed the relevant continuing education as set out in paragraphs 16 and 17 above, no further remedial education is required.

3. Respondent shall, within 60 days of the date of this Order, pay to the Department of Regulation and Licensing the costs of this proceeding in the amount of \$955.00 pursuant to Wis. Stat. § 440.22(2).

4. Payment shall be mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817

5. In the event Respondent fails to pay costs as ordered, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

6. This Order is effective on the date it is signed.

Wisconsin Medical Examining Board

By: Gene Musser, M.D.
A Member of the Board

5/20/09
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
FRANCINE L. COSNER, M.D.,	:	LS _____ MED
RESPONDENT	:	

[Division of Enforcement Case No. 08 MED 109]

It is hereby stipulated and agreed, by and between Francine L. Cosner, M.D., Respondent; Mary K. Wolverton of Peterson, Johnson & Murray, S.C., attorneys for Respondent; and Sandra L. Nowack, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (file 08 MED 109). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation, she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has obtained advice of legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's Order, if adopted in the form as attached

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or her attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such case advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Francine L. Cosner, M.D.
Respondent
1777 W. Grand Avenue
Port Washington, WI 53074

Date

Mary K. Wolverton
Peterson, Johnson & Murray, S.C.
Attorneys for Respondent
733 N. Van Buren Street 6th Floor
Milwaukee, WI 53202-4705

Date

Sandra L. Nowack
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date